

CIVILIAN COMPLAINT PROCEDURE(Form # EB17-005)

INTRODUCTION

The California Department of Insurance Enforcement Branch's Civilian Complaint Procedure helps both the community and the Department. A positive relationship between law enforcement and the public they serve, fostered by confidence and trust, are essential to effective law enforcement. While our personnel are charged with vigorous enforcement of the law, they must meticulously observe the rights of all people. Law enforcement personnel, at the same time, must be free to take action in a reasonable, lawful, and impartial manner without fear of reprisal.

It is important that adequate provisions be made for the prompt receipt, investigation and disposition of complaints regarding the conduct of Department personnel. The California Department of Insurance, Enforcement Branch, welcomes criticism of the Department and valid complaints against its employees or procedures. The purpose of the Enforcement Branch Professional Standards Unit is to ensure complete, fair, and impartial investigations of civilian complaints.

INVESTIGATION PROCEDURE

The person receiving your complaint will ask you to provide as much information as possible regarding the incident. If you were involved in or witnessed the incident, it is extremely important to the investigation that a statement is obtained from you. If your complaint stems from an arrest of a family member or yourself, it may not be investigated until the legal matter has been settled.

Depending on the circumstances of your complaint, it may be investigated in one of two ways; it will either be forwarded to the employee's supervisor for inquiry or to the Professional Standards Unit. Each allegation is examined on its own merits. Formal investigations require investigators to contact all available witnesses, including law enforcement officers, examine any relevant physical evidence, and gather all information pertinent to each allegation made in the complaint.

The Deputy Commissioner will render a finding in each case. There are four possible findings:

- **Sustained** - the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.
- **Not Sustained** - the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the employee.
- **Exonerated** - the investigation discloses that the alleged act occurred, but that the act was justified, lawful and/or proper.
- **Unfounded** - the investigation discloses that the alleged act(s) did not occur or did not involve Enforcement Branch personnel. Complaints which are determined to be frivolous will fall within the classification of unfounded.

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You will be notified of the finding in writing at the conclusion of the investigation. When a finding of sustained is determined, corrective action will be taken. The type of corrective action can vary and are subject to the rules of the California Department of Insurance and the California Department of Human Resources. Discipline may include counseling, training, and action up to and including termination. If your complaint is sustained and punitive discipline is imposed, the employee has appeal rights. Therefore, you may be required to testify at one or more administrative proceedings.

SUMMARY

Your valid concerns and criticisms help us protect the community from possible misconduct by our employees. At the same time, a thorough and impartial investigation procedure helps protect our employees from unwarranted charges when they perform their duties properly.

Per California Penal Code § 832.5 (a), "Each department or agency in this State which employs peace officers shall establish a procedure to investigate civilian complaints against the personnel of such departments or agencies, and shall make a written description of the procedure available to the public."

Per California Penal Code § 148.6 (a) (2), "A law enforcement agency accepting an allegation of misconduct against a peace officer shall require the complainant to read and sign the following information advisory:"

YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER FOR ANY IMPROPER POLICE CONDUCT. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CIVILIANS' COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CIVILIAN COMPLAINTS AND ANY REPORTS OR FINDINGS RELATING TO COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE YEARS.

IT IS AGAINST THE LAW TO MAKE A COMPLAINT THAT YOU KNOW TO BE FALSE. IF YOU MAKE A COMPLAINT AGAINST AN OFFICER KNOWING THAT IT IS FALSE, YOU CAN BE PROSECUTED ON A MISDEMEANOR CHARGE.

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HOW TO MAKE A COMPLAINT

The process for submitting a civilian complaint is located on the attached Civilian Complaint Procedures Document.

You may email a civilian complaint regarding any behavior on the part of an employee of the California Department of Insurance Enforcement Branch. Send the email to PSU@insurance.ca.gov and include the following information:

1. Your name, address (home and business), and phone numbers where we can call you;
2. Your date of birth;
3. Date and time of the event that you are filing a complaint about;
4. Name and badge number of the Enforcement Branch employee(s) involved, if you have them;
5. Vehicle number of the Department of Insurance Enforcement Branch vehicle involved, if you have it;
6. Description of the event; please give us as much detail as possible;
7. The names, addresses and phone numbers of any witnesses to what happened.